

Notice of Proposed Class Action Settlement for Individuals
who Worked as FedEx Contractors in New York
Padovano v. FedEx Ground Package System, Inc., No. _____ (W.D.N.Y.)

This is a Court-authorized notice. This is not a solicitation from a lawyer.

- A settlement of a lawsuit against FedEx Ground Package System, Inc. (“FedEx Ground”) has been proposed in which FedEx Ground will pay contractors who contracted with FedEx Ground after October 15, 2007 (and certain others defined in the settlement) to resolve claims brought by delivery contractors (“contractors”) alleging that FedEx Ground misclassified them as independent contractors while controlling them like employees.
- You may be eligible to receive a share of the settlement fund.
- FedEx Ground and the Plaintiffs agreed to a class action settlement that ***affects your rights whether you act or don’t act***. FedEx Ground will pay \$3,100,000.00 to resolve all claims of approximately ____ contractors in New York who worked during the period from October 15, 2007 to September 3, 2016. Read this Notice carefully to consider your options:

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
SUBMIT CLAIM FORM	Receive Money. If you submit the enclosed Claim Form and IRS Form W-9 by _____, you will receive payment as part of this Settlement.
OPT-OUT	You may opt-out of the settlement and pursue your own lawsuit concerning the same allegations.
OBJECT	You may write to the Court about why you don’t like the settlement.
DO NOTHING	If you do nothing, you will not receive any funds that are available under the Settlement, but you will still release any claims related to misclassification that you may have against FedEx.

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the settlement. Payments will be made if the Court approves the settlement and after any appeals are resolved.

1. Why did I get this notice package?

You received this notice because FedEx Ground's records show that you signed a FedEx Ground Pickup and Delivery Contractor Operating Agreement, individually or on behalf of an entity, to provide service in New York, between October 15, 2007 and September 3, 2016, or you did so prior to October 15, 2007 but have potential claims that were not released in other litigation against FedEx Ground.

2. What is this lawsuit about?

Four contractors sued FedEx Ground as Plaintiffs, on behalf of themselves and a class of other pickup and delivery contractors. The lawsuit is about whether FedEx Ground misclassified pickup and delivery contractors as independent contractors rather than as employees and failed to provide them with legal rights that employees have under New York law. On behalf of all contractors in New York, Plaintiffs sought compensation for violations of the New York statute prohibiting unlawful deductions from wages (NYLL § 193) and for unjust enrichment and misclassification claims.

FedEx Ground maintains that the independent contractor classification is appropriate and denies that it has broken any laws.

While this action was pending, the case was mediated, and the parties subsequently entered into an agreement to settle this action.

3. Why is this a class action?

In a class action lawsuit, the Plaintiffs sue on behalf of other people who have similar claims. The people who have similar claims to the Plaintiffs are "Class Members." The individuals who sued—and all the Class Members like them—are collectively called the Class.

As part of the Settlement Approval process in this case, the Court decided to allow the matter to proceed as a class action (for settlement purposes only).

4. Why is there a settlement?

The Court has not issued a final decision about the case, which has been ongoing for many years. Instead of further litigation, which could have taken many more years with no certainty of the outcome, both sides agreed to a class-wide settlement. The settlement provides the Class Members with compensation sooner and allows both sides to avoid the cost of a trial and possible appeals. Plaintiffs and their lawyers think the settlement is in the best interest of the Class Members. You may be familiar with previous lawsuits and settlement related to FedEx drivers in

New York. Though the plaintiffs in that case asserted similar claims to those asserted here, that case covered individuals who first signed an Operating Agreement before December 7, 2019, while this case primarily affects those individuals who first signed an Operating Agreement after October 15, 2007.

5. How do I know if I am part of the settlement?

You are part of the settlement if you meet all the following criteria:

- (1) **Signed Operating Agreement.** You entered into a FedEx Ground or FedEx Home Delivery Pick Up and Delivery Operating Agreement, either on your own behalf or on behalf of a business entity; **AND**
- (2) **Effective Date.** That Operating Agreement was in effect (a) between October 15, 2007 and September 3, 2016 or (b) it was in effect before October 15, 2007 and you either (i) excluded yourself from the class in a FedEx Ground multidistrict litigation action, [*Louzau*_____], United States District Court for the Northern District of Indiana, or (ii) you were a member of the class in the *Louzau* action but you or your business entity continued to provide service under the Operating Agreement after the end of the Release Period as defined in the settlement of that *Louzau* action; **AND**
- (3) **Dispatched in New York.** You or your business entity performed package and delivery services dispatched out of a terminal in New York between those dates.

If you do not satisfy all three conditions, you are not a member of the Class and are excluded from participation in this lawsuit.

6. Are there exceptions to being included?

If you qualify to participate in this lawsuit but choose to opt-out of the settlement, you will not be included in the settlement or receive any proceeds from the settlement fund.

7. I'm still not sure if I am included.

If you still are not sure whether you are included, you can call and ask for help. You can call the lawyers representing the class ("Class Counsel") for more information:

Harold L. Lichten, Esq.
Lichten & Liss-Riordan, PC
729 Boylston St., Suite 2000
Boston, MA 02116
(Ebony Green, Settlement Administrator, egreen@llrlaw.com, 617-994-5800)

[Add Sam Alba and Pete Winebrake_____]

THE SETTLEMENT BENEFITS

8. What does the settlement provide?

FedEx Ground has agreed to pay \$3,100,000 to resolve the class claims asserted in this action. The money will also be used to pay settlement administration costs, Plaintiffs' attorneys' fees and costs, and to pay the named Plaintiffs for their time and service to the Class. Settlement Payments will be distributed to Class Members who submit a Claim Form to participate in the settlement.

9. How much will my payment be?

Class Counsel estimates that after deduction of attorney's fees, administrative expenses, and payments to the named Plaintiffs, Class Members who participate will receive approximately \$_____ for each week that they worked more than thirty hours, and approximately \$_____ per week when they worked between fifteen to thirty hours. These amounts are only estimates and may be higher or lower depending on a number of factors, including how many Class Members choose to participate in the settlement.

10. What is the formula for allocation of the Settlement Fund?

The Net Settlement Fund, after deduction of fees and expenses, will be distributed among the Class Members who meet the Class definition and submit a Claim Form, based on their *pro rata* weeks worked within the Class Period. All Class members will receive a settlement payment of approximately \$_____ for each workweek during which it appears, based on data derived from FedEx Ground records, that they personally drove one of their FedEx Ground routes 30 or more hours, and a lower payment of \$_____ for workweeks in which they drove between 15 and 30 hours per week. There is a flat minimum payment of \$250 dollars for any Class Member who participates in the settlement.

11. Will I owe any taxes?

You will receive an IRS Form 1099 for the amount you are sent. You should consult with an accountant or other tax advisor about the tax consequences of your settlement proceeds.

HOW YOU GET A PAYMENT

12. How will I receive a payment?

You will only receive a payment if you complete and submit the attached Claim Form and IRS Form W9 by _____[deadline]. Then, if the Settlement is finally-approved and the time for appeals has expired, a settlement check will be mailed directly to you representing your share of the Net Settlement Fund. Within the next 90 days, a second check may be sent to you reflecting your *pro rata* share of unclaimed settlement proceeds (if any).

13. When would I get my payment?

The Court will conduct a Final Fairness Hearing on _____, 2019 to decide whether to approve the settlement. You should receive your payment within two months if the Court approves the settlement. However, payment will be delayed if there are appeals or if the Court declines to approve the settlement.

14. What am I giving up to get a payment?

Under the terms of the settlement, all Class Members who do not exclude themselves from the Class will be releasing FedEx Ground Package System, Inc., and parties related to it, from all claims that were asserted or could have been asserted in this action relating to allegations of misclassification as an independent contractor set forth in Plaintiffs' Operative Complaint.

If the Court approves the Settlement, your claims described above will be extinguished, regardless of whether you submit a Claim Form to receive funds from the Settlement.

THE LAWYERS REPRESENTING YOU

15. Do I have a lawyer in this case?

The Court has appointed the following lawyers to serve as Class Counsel for the Plaintiffs and Class Members in this lawsuit:

Harold L. Lichten, Esq.
LICHTEN & LISS-RIORDAN, PC
729 Boylston Street
Suite 2000
Boston, MA 02116

[Sam Alba and Pete Winebrake_____]

These lawyers will be paid from the Settlement Fund, so you will not be charged personally for their work on this case and in negotiating this settlement.

16. How will the lawyers and Plaintiffs be paid?

Class Counsel will ask the Court to approve payment of up to a) 30% of the Settlement Fund for attorney's fees and expenses to compensate the attorneys who have invested hundreds of hours and significant expense investigating the facts, litigating the case, and negotiating the settlement and b) \$15,000 each in service awards for the three Representative Plaintiffs for their efforts in pursuing this lawsuit and assisting Class Counsel throughout this litigation. The Court will make the final decision about the amount of attorney's fees and the service awards to be paid.

Class Counsel will make their requests to the Court for attorney's fees and expenses, as well as service awards, on or before _____. Payment of attorneys' fees and expenses will be made out of the Settlement Fund and you will not be required to pay any other fees and expenses.

OPTING-OUT OR OBJECTING TO THE SETTLEMENT

17. How do I tell the Court that I would like to opt-out or object?

All Class Members have the right to opt-out or exclude themselves from the settlement. By doing so, you will not release any claims against FedEx Ground and will preserve your right to pursue your own lawsuit concerning allegations set forth in Plaintiffs' Operative Complaint if you choose. However, if you opt-out, you will not be able to receive any proceeds from the settlement fund.

If you are a Class Member and do not opt-out, you can object to the settlement if you don't think it is fair, reasonable, or adequate. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must send a letter stating that you object to the Settlement. You may hire a lawyer to represent you at your own expense. If the settlement is approved over your objection, you will be bound by the release of claims described above.

To opt-out and exclude yourself from the settlement, you must send a letter to Class Counsel that includes:

- The name of this proceeding (*Padovano v. FedEx Ground Package System, Inc.*);
- Your full name, address, and phone number;
- A written statement that you are opting-out of the settlement.

To object to the settlement, you must send a letter to Class Counsel that includes:

- a written statement that you are objecting to the settlement, as well as the specific reason(s), if any, for each objection, including any legal or factual support you wish to bring to the Court's attention;
- Any evidence or other information you wish to introduce in support of your objection;
- A statement of whether you or your counsel intends to appear and argue at the Final Fairness Hearing (see Question 19); and

Mail the opt-out or objection to these two different places, postmarked no later than

_____:

Clerk	Class Counsel
Clerk of the Court U.S. Courthouse 100 State Street Rochester, New York 14614	Harold L. Lichten, Esq. Lichten & Liss-Riordan, PC 729 Boylston Street, Suite 2000 Boston, MA 02116

Your Objection or your Opt-Out request will likely become a public record filed in the lawsuit.

THE COURT'S FINAL APPROVAL HEARING

18. When and where will the Court decide whether to approve the settlement?

The Court will hold a Final Fairness Hearing on _____ in Courtroom _____ at _____[court address].

At the Final Fairness Hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. The Court will listen to class members who appear at the hearing who have filed a notice of intention to appear by _____. The Court may also decide how much Class Counsel will receive as attorney's fees and costs and whether to award service payments to the Class Representatives. After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take.

19. Do I have to attend the final fairness hearing?

No. Class Counsel will answer any questions that the Court may have at the hearing. You are welcome, however, to attend the final fairness hearing. If you submit a written objection, you don't have to come to the Court to talk about it. As long as you submitted your written objection on time, the Court will consider it.

You do not have to attend the Final Fairness Hearing to receive payment under the settlement. All that you are required to do to receive payment from the settlement fund is submit the attached Claim Form and IRS Form W9.

IF YOU DO NOTHING

20. What happens if I do nothing at all?

If you are a Class Member and do nothing, you will not receive any funds under the settlement, but you will still be bound by the release of claims described above.

Only those Class Members who submit the attached Claim Form will receive funds under the Settlement.

GETTING MORE INFORMATION

21. How do I get more information?

This notice summarizes the settlement. Additional details are included in the Settlement Agreement itself. You can get a copy of the Settlement Agreement by contacting Class Counsel at:

Harold L. Lichten, Esq.
Lichten & Liss-Riordan, PC
729 Boylston St., Suite 2000
Boston, MA 02116
(Ebony Green, Settlement Administrator, egreen@llrlaw.com, 617-994-5800)

[Sam Alba and Pete Winebrake_____]

Please do not contact the Court or FedEx Ground or its lawyers with questions about the settlement.

CLAIM FORM

Padovano, et al. v. FedEx Ground Package System, Inc., No. 1:16-cv-00017 (W.D. N.Y.)

In order to claim a share of the class action settlement in the lawsuit filed against FedEx Ground Package System, Inc. (“FedEx Ground”), you must complete and return this form and the enclosed IRS Form W9 to Class Counsel at the address listed below. Claim Forms may be submitted by mail, fax, or email by _____ to be eligible to participate.

All members of the Settlement Class must return the forms to the address below by _____ in order to claim a share of the settlement proceeds.

Harold L. Lichten, Esquire
Matthew Thomson, Esquire
Lichten & Liss-Riordan, P.C.,
729 Boylston Street, Suite 2000
Boston, MA 02116
www.llrlaw.com; Fax: 617-994-5801; Phone: 617-994-5800
claims@llrlaw.com (Ustina Ibrahim, Class Action Administrator)

Name: _____

Address: _____

Home Phone: _____ Cell Phone: _____

Email address: _____

TO RECEIVE YOUR SETTLEMENT PAYMENT, YOU MUST SIGN BELOW AND RETURN THIS FORM AND THE IRS FORM W9 TO THE ADDRESS ABOVE (BY MAIL, FAX, OR EMAIL) BEFORE _____.

BY SIGNING BELOW, YOU AGREE TO THE RELEASE DESCRIBED IN THE NOTICE THAT YOU RECEIVED INFORMING YOU ABOUT THE SETTLEMENT.

(Signature)

(Date)